

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Jurisdictional Separations and Referral to the)	CC Docket No. 80-286
Federal-State Joint Board)	

COMMENTS OF GILA RIVER TELECOMMUNICATIONS, INC.

Gila River Telecommunications, Inc. ("GRTI") hereby submits its comments in response to the notice of proposed rulemaking issued by the Commission on March 29, 2010.¹ As will be described below, GRTI understands the reasons for yet another extension of the "interim" freeze (about to enter its tenth year), and does not oppose the freeze. However, the prolonged and continuing delay in achieving comprehensive jurisdictional separations reform is causing GRTI and, more importantly, its customers -- the members of the Gila River Indian Community -- to suffer reduced support, high prices and insufficient public services. For that reason, GRTI supports the freeze extension conditioned on prompt and favorable action on GRTI's long-pending request to allow it to unfreeze its 2001 election to freeze its separations category relationships.

GRTI is a tribally-owned telecommunications carrier which is wholly-owned by the Gila River Indian Community, located on approximately 372,500 acres in rural southern Arizona. GRTI serves approximately 4,000 access lines, of which about 2,400 are residential lines. Since acquiring the exchange from U S West (now Qwest) in 1989, GRTI has been able to increase its penetration rate among tribal households from ten percent to more than eighty percent today. This is dramatic progress but still much of the tribal community does not have service, and

¹ Jurisdictional Separations and Referral to the Federal-State Joint Board (*Notice of Proposed Rulemaking*), FCC 10-47, released March 20, 2010 ("2010 Freeze Extension NPRM").

important public safety functionalities, such as reliable and sufficient E911 access, are not available. In addition, only a small portion of GRTI's tribal community customers have any kind of broadband service. Only about twenty-two percent of GRTI's customers have subscribed to its Digital Subscriber Line service.

In the Commission's 2001 Separations Freeze Order,² the Commission froze the separations allocation factors for rate-of-return carriers. However, it gave rate-of-return carriers the option of also freezing their separations category relationships. At the time that this choice was offered to rate-of-return carriers, the Commission's own stated expectation was that the freeze was to be for an interim period only -- five years or until the Commission completed comprehensive separations reform (a process begun in 1997) -- whichever occurred first.³

Relying on the Commission's own expectation that its decision would freeze the category relationships for a period of five years or less, GRTI was one of a relatively small number of rural local exchange carriers who made that election. GRTI's freeze election was based upon considerations of regulatory certainty and reduction of regulatory burdens during the transition to a deregulated, competitive environment.

Irrespective of any short term regulatory convenience benefits which GRTI may have enjoyed between 2001 and 2006, the prolonged continuation of the freeze has proven costly to GRTI and to the residents of the Gila River Indian Community who rely upon GRTI for affordable and reliable telecommunications service. For that reason, in November 2006, GRTI petitioned the Commission to allow it to revisit its 2001 election to freeze its separations

² Jurisdictional Separations and Referral to the Federal-State Joint Board, 16 FCC Rcd 11382 (2001).

³ Id., at ¶ 9.

category relationships and to “unfreeze” those relationships.⁴ That petition was unopposed and was the subject of supporting comments from the National Telecommunications Cooperative Association. Perhaps more importantly, during the nine years since the freeze was first imposed, and the nearly four years during which the separations freeze has, so far, been extended, not one other rate-of-return local exchange carrier has requested to revisit its freeze election.⁵ All of this demonstrates that the circumstances surrounding GRTI’s request to revisit its 2001 election to freeze its separations category relationships are unique to GRTI.

GRTI has met with the Commission on not less than five occasions between November 2007 and April 2010 to discuss its pending petition and the need for relief from the 2001 “interim” freeze election. Nonetheless, GRTI’s petition remains pending and the company continues to lose substantial high cost support. Based upon the most recent calculations of GRTI’s cost consultant, GRTI’s 2001 election to freeze separations category relationships is causing the company to lose approximately \$1,417,000 in annual Universal Service Fund high cost support. This loss of high cost support impedes GRTI’s ability to continue to invest in network upgrades and expansion of service and causes GRTI customers to pay more for those services which are available.

Since 2001, GRTI has made important investments to upgrade and reconfigure its network. Specifically, commencing in the 2005-2006 period (near the end of what had been anticipated to be the “interim” freeze period), GRTI replaced its seven Class 5 switches with one Host switch and 6 DLCs/carrier systems. In short, the network evolved from a switch-based

⁴ Petition of Gila River Telecommunications, Inc. to Unfreeze Part 36 Category Relationships, filed November 21, 2006, and Supplement to Petition of Gila River Telecommunications, Inc. to Unfreeze Part 36 Category Relationships, filed August 31, 2007.

⁵ Of the relatively few rate-of-return LECs who elected to freeze their separations category relationships in 2001, no others were tribally-owned.

network to a more efficient circuit-based network. These network decisions are prudent and important to GRTI's ability to continue to upgrade, expand and improve the quality of services it delivers to its tribal community. However, these network changes are having the effect of penalizing GRTI by depriving it of high cost support to which it would be entitled, but for the 2001 freeze election -- an election which did not anticipate the impact on separations of the network changes which GRTI began to implement five years later.

GRTI recognizes that the Commission is committed to bringing state-of-the-art telecommunications services, including advanced/broadband services to tribal communities. This commendable commitment is apparent from the Commission's recently-issued National Broadband Plan,⁶ as well as in recent pronouncements.⁷ Recently, Chairman Genachowski noted that "broadband has the potential to help Tribal communities advance farther, faster, than any new technology in our lifetime."⁸

GRTI shares that vision and is working diligently to bring best possible telecommunications infrastructure and services to the Gila River Indian Community. The additional high cost support which it would receive if the Commission allows it to unfreeze its 2001 election to freeze its separations category relationships will provide it with important resources to expand its service, bring affordable broadband access to its residents, and perhaps most importantly, to enhance public safety. These additional funds will be used, among other things, to modernize the community's 911 system. The current 911 system is address-based

⁶ Connecting America - The National Broadband Plan, issued March 16, 2010. See, especially Chapter 9.7 (Coordinating with Tribes on Broadband Issues).

⁷ See, e.g., Prepared Remarks of FCC Chairman Julius Genachowski, National Congress of American Indians, 2010 Executive Council Winter Session, Washington, DC, March 2, 2010 ("We are committed to consulting with you on a regular basis to ensure that all Tribal communities enjoy the benefits of a modern communications infrastructure, including broadband.").

⁸ *Id.*, at 3.

rather than GPS-based. Address-based systems do not provide sufficient safety protections in tribal communities since many tribal residences are not associated with street addresses. The additional high cost support will enable GRTI to complete the replacement of the current address-based E911 system with a GPS-based system.

For the reasons stated herein, GRTI supports the Commission's proposed extension of the separations freeze for one additional year conditioned upon the Commission granting GRTI's three and one-half year old petition to unfreeze separations category relationships either prior to or simultaneously with its action on the freeze extension proposal.

Respectfully submitted,

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